

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

FILED  
U.S. DISTRICT COURT  
2008 AUG -5 P 3:35

DISTRICT OF UTAH

BY: [Signature]  
DEPUTY CLERK

DENNIS R. FRANKE,  
Plaintiff,

Case No. 2:07-CV-73-DAK

v.

ARUP LABORATORIES,  
Defendant.

**ORDER**

Before the court is Plaintiff's motion to amend his complaint. (Docket Entry #37.) Plaintiff's motion requests that he be allowed to add a due process claim to his complaint.

Also before the court is a document filed by Plaintiff that appears to be an amendment to Plaintiff's complaint. (Docket Entry #41.) The court construes this second pleading to be a second motion to amend Plaintiff's complaint. Although Plaintiff may have thought he could simply file an amendment to his complaint, Rule 15 of the Federal Rules of Civil Procedure requires Plaintiff to obtain leave of the court before filing an amended complaint after the defendant has filed a responsive pleading. See Fed. R. Civ. P. 15(a). Because Defendant has already filed an answer in this case (Docket Entry #25),

Plaintiff must obtain the court's leave before filing an amended complaint.

In order to file a successful motion to amend his complaint, Plaintiff must include, with the motion, a copy of his proposed amended complaint. Providing the court with the six or seven sentences Plaintiff wishes to add to the complaint is not sufficient; Plaintiff must incorporate the changes he wishes to make in his complaint, then provide the court with the amended complaint, in its entirety. Once the court has received the proposed amended complaint in its entirety, the court will examine the proposed amended complaint and determine if it will permit Plaintiff to file the proposed amended complaint. The court notes that, according to Rule 15, the court generally grants a party leave to amend his complaint "freely . . . when justice so requires." Fed. R. Civ. P. 15(a).

Therefore, because Plaintiff has not provided the court with his complete proposed amended complaint, **IT IS HEREBY ORDERED** that Plaintiff's motions (**Docket Entries #37, 41**) are **DENIED**. However, if Plaintiff still wishes to amend his complaint, the court encourages him to file a new motion to amend his complaint

and include a copy of the proposed amended complaint in its entirety.

DATED this 5<sup>th</sup> day of Aug, 2008.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "S. Alba", is written over a horizontal line.

SAMUEL ALBA  
United States Chief Magistrate Judge